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Docket Administrator
LUCENT TECHNOLOGIES
Room 3J-219
101 Crawfords Corner Rd.
Holmdel, NJ 07733-3030

In re Application of
RUPAREL, Ketan
U.S. Application No.: 10/069,685
PCT No.: PCT/EP00/05709
Int. Filing Date: 20 June 2000
Priority Date: 31 August 1999
Attorney's Docket No.: Ruparel - 1
For: METHOD AND APPARATUS FOR
ESTABLISHING COMMUNICATION

**DECISION
ON
RENEWED PETITION**

This decision is in response to the papers titled "Renewed Petition Under 37 C.F.R. 147(b) When All the Inventors Cannot Be Reached" submitted on 05 March 2003.

BACKGROUND

On 14 January 2003, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Applicant failed to meet all of the requirements of items (2), (4) and (5) of 37 CFR 1.47(b).

On 05 March 2003, petitioner submitted the instant renewed petition which was accompanied by, *inter alia*, a legal memorandum; a declaration signed by the 37 CFR 1.47(b) applicant, a copy of a letter sent to Mr. Ruperal dated 15 November 2001, and a copy of an E-mail sent from Lucent to Valerie Barnes.

DISCUSSION

The 37 CFR 1.47(b) applicant failed to satisfy items (2), (4) and (5) in the initial petition. Item (2) was not satisfied because the 37 CFR 1.47(b) applicant did not provide the required documentary evidence to show that a diligent effort was made to locate Mr. Ruperal.

In the renewed petition, the 37 CFR 1.47(b) applicant has submitted a copy of a letter dated 15 November 2001 sent to Mr. Ruperal at his last known address. Moreover, copies of E-mails sent to Ms. Barnes from the Human Resources department of Lucent Technologies. This evidence satisfies the remaining requirements not addressed in the initial petition for item (2) of 37 CFR 1.47(a).

Regarding item (4), applicant included a declaration signed by D.L. Padilla, President, Intellectual Property Business Lucent Technologies on behalf of Mr. Ruperal. The name, residence, post office address and citizenship of the sole inventor are listed on the declaration. This declaration satisfies section 409.03(b) of the MPEP and 37 CFR 1.497(a) and (b). Thus item (4) is satisfied.

Concerning item (5), the 37 CFR 1.47(b) applicant has provided a legal memorandum by a British Patent Attorney in the renewed petition to demonstrate sufficient proprietary interest in the above-captioned application. Section 409.03(f) Of the MPEP also discusses this and states:

A proprietary interest obtained . . . may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute . . . or a court decision . . . relied on to demonstrate a proprietary interest should be made of record.

This document meets all of the requirements of section 409.03(f) of the MPEP. Therefore, item (5) of 37 CFR 1.47(b) is satisfied.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION


Applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 27 August 2002 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 20 June 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 05 March 2003.

This application is being forwarded to the National Stage Processing Division of

the Office of PCT Operations for continued processing.


James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457